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10/617,172	07/11/2003	Kwang-Kyu Kim	1293.1908	2995
21171	7590	10/19/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			CHEN, TIANJIE	
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			2652	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Final Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1–18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bronshvatch et al (US 5,528,434).

Claim 1, Bronshvatch et al shows a disk clamp in Fig. 6 of a hard disk drive to affix a magnetic disk that stores data to a spindle motor of the hard disk drive (Fig. 8), the disk clamp including: a pressing portion 76 formed along an outer circumference of the disk clamp at an edge portion, to press an upper surface of the disk in a vertical direction; a stress distribution portion formed inside the pressing portion and having a profile with a curved shape 72 bulged upward to distribute stress applied to the disk; and a plurality of screw coupling holes 58 into which screws are inserted to be coupled to an upper end portion of the spindle motor and provided at a predetermined distance in a circumferential direction inside the stress distribution portion.

Claim 2, Bronshvatch et al further shows that the pressing portion has a profile having a curved shape bulged downward.

Claim 3, Bronshvatch et al further shows that a radius of the curved shape of the stress distribution portion is greater than or equal to a radius of the curved shape of the pressing portion.

Claim 4, Bronshvatch et al further shows in Fig. 5 that the pressing portion is continuously formed at the stress distribution portion.

Claim 5, Bronshvatch et al further shows in Fig. 6 that the disk clamp has a same thickness throughout an entire portion of the disk clamp.

Claim 6, Bronshvatch et al shows in Figs. 6 and 8 that the disk clamp has a dome shape with a center portion bulged upward as a whole and, when the disk clamp is coupled to the spindle motor by the screws, the disk clamp is flattened as a whole.

Claim 7, Bronshvatch et al further shows that the disk clamp is made of stainless steel (Column 5, lines 58-61), which is a metal material having a predetermined elasticity.

A "product by process" claim is directed to the product per se, no matter how actually made, see *In re Hirao*, 190 USPQ 15 at 17 (footnote 3 CCPC, 5/27/76); *In re Brown*, 173 USPQ 685 (CCPA 5/18/72); *In re Luck*, 177 USPQ 523 (CCPA, 4/26/73); *In re Fessmann*, 180 USPQ 324 (CCPA, 1/10/74); *In re Thorpe*, 227 USPQ 964 (CAFC, 11/21/85). The patentability of the final product in a "product by process" claim must be determined by the product itself and not the actual process and an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Applicant's claim 7 is a product claim, the limitation "manufactured by press processing" is a process related limitation, which gains no weight in determining patentability.

Claim 8, Bronshvatch et al further shows that the disk clamp includes a substantially S-shaped edge portion to press an upper surface of a disk in a vertical direction and distribute stress applied to the disk; and an inner portion having a plurality of apertures circumferentially arranged at predetermined distances inside the substantially S-shaped edge portion (Figs. 5 and 6).

Claim 9, as described above, Bronshvatch et al further shows a disk clamp of a hard disk drive as described above, the disk clamp including: a substantially wave-shaped edge portion to press an upper surface of a disk in a vertical direction and

distribute stress applied to the disk; and an inner portion having a plurality of apertures circumferentially arranged at predetermined distances inside the substantially wave-shaped edge portion.

Claim 10, as described above, Bronshvatch et al further shows that the inner portion of the disk clamp is coupled by screws via the apertures to an upper end portion of a spindle motor of the hard disk drive (Fig. 8).

Claim 11, as described above, Bronshvatch et al further shows an outer portion of the substantially wave-shaped edge portion is a pressing portion with a profile having a substantially curved shape with at least one bulge downward.

Claim 12, as described above, Bronshvatch et al further shows that inner portion of the substantially wave-shaped edge portion is a stress distribution portion with a profile having a substantially curved shape with at least one bulge upward.

Claim 13, as described above, Bronshvatch et al further shows that a radius of the substantially curved shape of the stress distribution portion is greater than or equal to a radius of the substantially curved shape of the pressing portion.

Claim 14, as described above, Bronshvatch et al further shows that the pressing portion is continuously formed at the stress distribution portion.

Claim 15, as described above, Bronshvatch et al further shows that the disk clamp has a same thickness throughout an entire portion of the disk clamp.

Claim 16, as described above, Bronshvatch et al further shows that the disk clamp has a dome shape with a center portion bulged upward as a whole and, when the disk clamp is coupled to a spindle motor by screws, the disk clamp is flattened as a whole.

Claim 17, as described above, Bronshvatch et al further shows that the disk clamp is made a metal material having a predetermined elasticity, and the limitation "manufacture by press processing" gains no weight in determining patentability.

Claim 18, as described above, Bronshvatch et al further shows a disk clamp of a hard disk drive to fix a magnetic disk that stores data to a spindle motor of the hard disk drive, the disk clamp including: a pressing portion formed along an outer circumference of the disk clamp at an edge portion, to press an upper surface of the disk in a vertical direction; a stress distribution portion formed inside the pressing portion and having a profile with a curved shape bulged upward to form a dome portion to distribute stress applied to the disk, and having a plurality of screw coupling holes into which screws are inserted to couple the disk clamp to an upper end portion of a spindle motor, the screw coupling holes being provided at a predetermined distance in a circumferential direction inside the stress distribution portion, wherein, when the disk clamp is coupled to the spindle motor by the screws, the disk clamp is flattened as a whole.

Response to Arguments

2. Applicant's arguments filed 09/06/2005 have been fully considered but they are not persuasive.

Applicant argues that Bronshvatch's reference does not include a spring portion.

Examiner's answer: in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the features recited above) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


TIANJIE CHEN
PRIMARY EXAMINER